

[17th May 1954]

MR. CHAIRMAN :—" The question is—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried.

The clause by clause consideration of the Bill was then taken up.

Clauses 2, 3, 4 and 1 and the Preamble were put and carried.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I beg to move—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law."

MR. CHAIRMAN :—" Motion moved—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law.' "

* SRI M. P. GOVINDA MENON :—" Sir, in answer to the points raised by the hon. Member Sri G. Krishnamurthi, the Hon. Minister said that the whole system of hereditary village officers would be reformed. In this connexion I am forced to say this. The hereditary system obtaining at present must cease. If a person happens to be a village officer, his son automatically becomes the village officer. Therefore these village offices are held by a particular set of people. In considering measures of reform, the question of abolishing the hereditary system of village officers must be taken up."

MR. CHAIRMAN :—" The question is—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.

(3) THE MADRAS ELECTRICITY UNDERTAKINGS (ACQUISITION)
BILL, 1954 (L.A. BILL NO. 23 OF 1954).

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—" Mr. Chairman, Sir, I beg to move—

"That the Madras Electricity Undertakings (Acquisition) Bill", 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.'

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Sir, in moving this Bill I would like to state briefly the necessity for this measure. The need for the legislation has been explained in the Statement of Objects and Reasons published along with the Bill. The Madras Electricity Supply Undertakings Acquisition Act, 1949, was passed by the Provincial Legislature after mature consideration and was brought into force on the 24th January 1950. For the reasons explained in the Statement of Objects and Reasons, the Supreme Court has held that the Act was *ultra vires* of the Provincial Legislature.

“ In the Governor's Address to the joint session of the Legislature in February last and in the Finance Minister's speech introducing the Budget for 1954-55, reference was made to the intention of Government to re-enact suitably the provisions of the impugned Act. The reasons which weighed with the Provincial Legislature for passing the Act in 1949 still hold good. Since the coming into force of the impugned Act, the Government of Madras acquired under the Act, a number of local authority and private electrical undertakings of which 20 local authority and 3 private undertakings are now in the present Madras State. These acquired undertakings have long since been integrated into the concerned power systems of the Government Electricity department and the staff belonging to them have also been merged in suitable service cadres under the departmental set-up. Hon. Members would have readily appreciated the difficult legal position in regard to the electrical undertakings so far acquired by Government and I need not dwell at length on that point. To be brief, the position is that the Government are faced with the possibility of suits being instituted against them for liability to pay compensation for acts which may now be deemed to be illegal or wrongful. The payment of compensation by the Government for the consequences arising from such acts may also be enforced through courts of law. The ambit of the expression ‘consequences’ may give rise to almost insoluble problems.

“ Hon. Members will agree that it might be very embarrassing to leave things as they are and face a crop of litigation and also exorbitant demands in respect of undertakings already taken over and for damages for loss of profits for winding up managing agencies, etc.

“ The sections of the impugned Act and the corresponding provisions of the Bill have been printed in parallel columns and circulated to hon. Members for convenience of reference. The changes made in the Bill as compared to the provisions in the impugned Act have been indicated in italics. The reasons for important changes have also been indicated in a separate column. Except those provisions of the 1949 Act which have been held by the Madras High Court to be invalid, namely, provisions relating to the appointment of accredited representative by the Government and the basis for determination of compensation for local authority undertakings, and a very few other modifications to the Act which have been found essential in the application of

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the Act and which would be essential for purposes of validation of the proceedings already taken by the Government in respect of undertakings already acquired under that Act, the Bill before the House incorporates precisely the same provisions as in the impugned Act passed by this Legislature after due deliberation. No discriminatory treatment between local authority and private licensees has been made in the Bill in the matter of assessment of compensation, etc. No doubt there is some extra financial commitment to Government on account of the deletion of the discriminatory treatment, but the money goes to local bodies. I may mention in this connexion that long before the appeals to the Supreme Court were heard by that Court and the 1949 Act was declared void by it, the Government had decided and the approval of the Legislature had also been obtained, to make an *ex-gratia* payment amounting to about Rs. 16 lakhs to the local authorities over and above the compensation already paid for or was payable for their undertakings under the provisions of the 1949 Act. And this *ex-gratia* payment would have been disbursed already but for certain local authorities having taken up the matter to the High Court. The net extra commitment is expected to be about Rs. 45 lakhs and it will not be difficult to provide this amount as and when necessary.

"I would request the hon. Members of the House to pass this Bill."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.'

* DR. V. K. JOHN :—" Mr. Chairman, Sir, I must compliment the Hon. Minister, who moved the motion, on printing the provisions of the 1949 Act side by side with the provisions of the proposed Bill and also on pointing out the reasons for the changes. So far, he has done very well. Normally I would have moved that this Bill be referred to a Select Committee under rule 109 of the Council Rules, but the proceedings in this House have now become—I say this with due respect of everybody concerned—a *post-mortem* examination of the Bill passed by the Assembly. Rule 109 and other rules which provide for amendment of Bills by this House have all become a dead letter. One might regard, Sir, that you are presiding over a House where up to this time the Government with their majority never allowed an amendment and never referred any matter to a Select Committee.

"This, in my opinion, is a very important Bill and should have been referred to a Select Committee. The Government apparently made a very serious mistake in passing a Bill into an Act in 1949 which had no legal sanction behind it whatsoever.

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Apparently the Government had no competent legal advisers to assist them. Could any Government introduce and enact a measure which under the law they could not introduce and pass into law? That was a great discredit to any Government which had a Legal department and also some legal advisers. What really happened was, a very important Bill was passed into law in 1949 and lakhs and lakhs of rupees were spent in acquiring the undertakings. Later on the enactment was found to be *ultra vires* of this Legislature. Then, what is the position to-day? Are the Government sure that they are now quite competent to introduce this Bill? I do not want to go into technicalities of the provisions of the Bill in this House and argue at length as I would in a court of law that this Legislature has no jurisdiction. However, I would like to mention one or two facts with regard to the provisions of this Bill.

“ Sir, Article 248 of the Constitution of India provides that Parliament has exclusive power to make any law with reference to any matter not enumerated in the Concurrent list or State list. Three lists are given in the Seventh Schedule to the Constitution. One is the Union list. The second is the State list. The third is the Concurrent list. This Article 248 of the Constitution assumes that there are other subjects beyond those mentioned in the three lists. Certainly there are subjects beyond those mentioned in the three lists. If there are any such subjects they come under the powers of the Union Parliament.

“ Now, this decision of the Supreme Court is reported in the Madras Law Journal, and that explains the position in these words: ‘ There was no entry in any of the three lists relating to compulsory acquisition of any commercial or industrial undertaking, although section 299 of the Act clearly contemplates a law authorizing compulsory acquisition for public purposes of a commercial or an industrial undertaking. The acquisition of a commercial or an industrial undertaking not being the subject-matter of any entry in any of the three lists, neither the Federal Legislature nor the Provincial Legislature can enact a law with respect to compulsory acquisition of a commercial or industrial undertaking’. Now there is no mention in any of these three lists which refer to the acquisition of commercial or industrial undertakings. No doubt item 36 in the State list (Schedule VII to the Constitution) refers to property but not to commercial or industrial undertakings as explained by the Supreme Court. Can the Government interpret the word ‘ property ’—they do not use even the word ‘ property ’—as including a commercial undertaking? (Interruption.) The Government presume that they can put that interpretation. I say the Government have jurisdiction only if that is specifically mentioned in list No. II, which is the State list. If it is not specifically mentioned, the Government are governed by Article 248 according to which this must go before the Union Legislature. I ask, have the Government obtained in writing an opinion from any competent legal authority

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that the word 'property' can be interpreted as meaning 'commercial and industrial undertakings'? I say, it does not mean that. Even the Constitution makes a distinction between the two, and this will be evident on a reading of Article 31 (2) which says: 'No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law . . .', etc. When the Article of the Constitution itself uses the words 'including commercial or industrial undertaking', it shows that the word 'property' cannot include 'commercial or industrial undertakings'. The Government took the risk of interpreting the word 'property' to include 'commercial or industrial undertaking' and without competent legal advice passed an enactment in 1949 and spent lakhs and lakhs of rupees on the acquisition of these undertakings. In 1954 the Government have been told that they did it without jurisdiction.

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"There is an Article in the Constitution which assumes that there may be items which are not covered by any of the three lists in Schedule VII, namely, the Union List, the State list and the Concurrent list. Otherwise, what is the reason for having included Article 248 in the Constitution? The Supreme Court has said that the Government did not have this power to acquire commercial and industrial undertakings, at the time the original Act was passed under any of the Legislative lists of the Government of India Act, 1935, and that to-day this power is not mentioned in any of the lists of the Seventh Schedule to the Constitution of India. Therefore, are we not taking a very great legal risk in having this measure passed into law without sufficient examination? In the other House the Government were asked to refer this Bill to a Select Committee but they would not do it. The Government want an important legislation involving lakhs of rupees and also property belonging to individuals and to local bodies to be rushed through and passed into an Act. Perhaps, five years later, when a new Ministry is in office, the Supreme Court of India will say that the Government have not looked into their previous decision. They have specifically used the words 'There was no entry in any of the three lists relating to compulsory acquisition of any commercial or industrial undertaking'. Although clause (2) of Article 31 of the Constitution contemplates a law for authorizing the compulsory acquisition for public purposes of any commercial or industrial undertaking, the Supreme Court has clearly stated that there is nothing in any of the three lists of Schedule VII which relates to acquisition of property. They have particularly used the words 'there is not in the list an item which refers to industrial or commercial undertakings'. Therefore, it is doubtful whether you have the jurisdiction to introduce and pass this legislation. Article 248 (1) of the Constitution says that 'Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent list or State list'. You have therefore undertaken a legislation which may be *ultra vires* of this Legislature. You ought to have

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by way of abundant caution asked Parliament to pass this law. Under Article 248 Parliament has got exclusive power to make any law with respect to any matter not enumerated in the Concurrent list or the State list. When there is this provision in our Constitution why should we take a risk? I need not go to the extent of saying that this is *ultra vires* of this Legislature but it is certainly risky in the face of the wording used by the Supreme Court in its judgment. You should have asked Parliament to enact this legislation, and Parliament would surely have come to your help because you have already spent lakhs and lakhs of rupees in acquiring these undertakings.

“ Sir, a request was made in the other House to have this Bill referred to a Select Committee but the Government rushed through this measure and it was passed. I find that on every occasion after this Legislative Council was constituted under the Constitution, without any exception whatsoever, we are treating every discussion here as a post-mortem examination of Bills passed by the other House. Has not Parliament intended that this House should have power to refer Bills to Select Committees and is it not intended that this House can bring in any amendments to Bills passed by the other House? But, however good the amendments may be, you will not accept them and it also ill becomes the dignity of the Opposition to bring in amendments which they know very well will never be accepted. In fact, my hon. Friend, Sri M. P. Govinda Menon, speaking on some other Bill made a reference to-day to this kind of feeling, particularly among Members not belonging to the Congress Party, that this House was not fulfilling a useful function and could do nothing at all here.

“ Coming to the Bill under reference, you are taking a very grave risk similar to that which you took in 1949. You should not have taken it. Even now it is not too late. You can refer this Bill not only to your legal advisers but to the legal advisers of the Government of India and other competent men and get a written opinion that this is within the competence of this Legislature. I am sure everybody will say “Even though it is not absolutely certain that you have no power, it is a risky matter and you need not undertake it and invest any money in pursuance of this legislation.” I therefore submit to the Hon. the Minister for Public Works and the Government not to rush through this legislation without previous consultation and without previously obtaining competent legal opinion. You should not take a very great risk in this matter.

“ Having said this, I may point out that in 1949 when this Act was passed the idea was that there must be a plan for nationalising everything and the money required for it must also be found. The idea of nationalisation was prominent in those days. The bus transport in the City was nationalised. Did you give any benefit to the public on account of this nationalisation? You

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never reduced the fares and when you wanted to nationalise the electrical undertakings your idea was to find jobs for your own men."

SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, the Hon. the Deputy Leader of the Opposition, Dr. V. K. John, is always addressing you as if you are responsible for all the misdeeds of the Government."

* DR. V. K. JOHN :—" I must address the Chair and the procedure is that I must address the House only through the Chair."

MR. CHAIRMAN :—" I think the Hon. the Deputy Leader of the Opposition knows the procedure well."

* DR. V. K. JOHN :—" Sir, what is this nationalisation for? It is not meant to benefit the public. The Government say the local bodies have not got a lot of funds to undertake the supply of electricity to people. Why should not the Government help them with the funds required? Again they say the private companies have not got adequate funds and therefore they are acquiring them. The lack of funds is not at all the reason. The Government acquired them because in those days they thought that everything ought to be nationalised. But, how did the Congress Government nationalise the bus transport industry and the electrical undertakings? They did not pay the market value and the people had to go to Courts. One great principle which any civilised Government ought to follow in acquiring other people's property is to give the market value which should be settled by judicial authorities. As provided for in the Land Acquisition Act the Government should also give a solatium of 15 per cent if the acquisition is compulsory. But, have the Government ever followed this principle? In every case where they have tried to acquire land, or other property or other undertakings they have never paid the market value to these people. What has been the result of this attitude? From that time people are fighting shy of investing any money on any business. If there is anything that has frightened the investors and the adventurous people, who venture to start new undertakings, it is the fear that if that undertaking is partly or wholly successful the Government will step in and nationalise that undertaking and would not pay them the market value, let alone the solatium. Is it just and proper that the Government should do so?"

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p.m. " This is the way in which the Government have progressed, and it was in this manner that they passed the 1949 Act. The Government start with the idea of nationalising everything. If they want to acquire these undertakings, let them pay proper compensation, namely, the full market value of the property and a solatium of 15 per cent. When settling the principles of compensation, the Government should see that they do not expropriate private property. I say that the provisions in this Act in

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regard to payment of compensation, that is, the payment of market value and solatium, should be condemned and condemned very strongly. By the 1949 Act and by this Bill the Government are to-day preventing private enterprise and even an enterprise by local bodies. I do not see how local bodies cannot carry on these undertakings. It is the responsibility of the Government to provide cheaper electricity even to those living in the rural parts. But what have this Government done? Are we having cheaper electricity in our State like Mysore and Travancore-Cochin States? No, not at all. Have the people been benefited in any way by the Government acquiring these undertakings under the 1949 Act? Have they extended the facilities or have they made electricity cheaper? The Government should see to it that some benefit is conferred on the public. Another thing I was to bring to the notice of the Government is that whenever they invest lakhs and crores of rupees on undertakings like this, they must have a sinking fund because the machinery will last only for 30 or 40 years. They must provide for an adequate sinking fund and they must have proper return from the investment."

THE HON. SRI C. SUBRAMANIAM :—" We are already having a sinking fund."

* DR. V. K. JOHN :—" That sinking fund is not worth mentioning at all."

THE HON. SRI C. SUBRAMANIAM :—" There is a depreciation fund for electricity undertakings."

* DR. V. K. JOHN :—" Clause 24 declares valid all acts or things done previously. Have the Government consulted any legal authority as to whether they could legalize all those things done under an illegal Act? I am not saying that the Government could not but they must take legal opinion in the matter. I cannot support this Bill because I think it is a very risky measure for this Legislature to pass, and the Government have not looked into it whether they have still got the jurisdiction to enact this measure. I am sorry I have to repeat that the Government have not referred such an important measure to a Select Committee either of this House or the other House."

SRI MOHAMED RAZA KHAN :—" Mr. Chairman, Sir, the legal aspect of the whole question has been dealt with by the Deputy Leader of the Opposition and I think it is for the Hon. Minister concerned or for the Hon. the Finance Minister to reply. I do not like to go into it. But the fact remains that in the year 1949 there was general agreement in the House on the principle of nationalisation of the electrical undertakings. I know that the then Minister for Public Works, who had earned so much reputation, did his best to pilot this Bill. If I remember aright, it was pointed out to the then Minister for Public Works that the provision for the appointment of some nominee of the firms in case they do not agree and also the provision for

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paying something more to the local board undertakings were likely to be held *ultra vires* by the High Court. Here I am not trying to exploit this point against the Government. Even with the best of intentions, we may sometimes miss a particular point. But it would not be good if the Acts that we pass here are declared invalid by the High Court or the Supreme Court and adverse decision are given. Therefore, before passing any legislation, the Government would do well to consider all the aspects by referring the Bill to a Select Committee either of this House or of the other House. The Deputy Leader of the Opposition said that the Government should have referred this Bill to a Select Committee. After all this is an Amending Bill. The original Bill was passed in the year 1949 and the very purpose of this Amending Bill is only to meet the various points raised by the decision of the High Court and the Supreme Court. I feel that whenever there is a major Bill of this kind, it is much better to refer it to a Select Committee. In the past, it has been the policy of the Government to refer important Bills to Select Committees. Most probably, in this Session, owing to the hot summer, the Ministers are in a mood to finish their work and disperse themselves. Otherwise they would have referred one or two Bills to Select Committees.

“With regard to payment of compensation, I do not like to argue much. I would say for the information of the Deputy Leader of the Opposition that at the time when the Bill was before the Legislature in 1949, the persons concerned expressed a great deal of satisfaction with regard to the provisions in respect of compensation. After our bitter experience in the matter of awarding compensation to the Zamindars, we even thought that the Government would adopt the same policy. But hon. Members who knew the subject and who were themselves concerned in the matter and people outside said that they had no cause for grievance. The Government had done well; more than we expected. Even one or two representatives of this House . . .”

(At this stage the hon. Member Sri A. Gajapathy Nayagar was found passing between the speaker and the Chair.)

MR. CHAIRMAN :—“Order, order. The hon. Member should not cross between the speaker and the Chair. I have drawn the attention of the hon. Members to this matter many times previously.”

SRI MOHAMED RAZA KHAN :—“Now, coming to the subject, even one or two representatives of this House—I could even mention their names—had said that they had no cause for complaint. I therefore do not wish to pursue this point any further.

“I shall refer to one or two aspects—they are about the policy and not about the clauses of the Bill. There seems to be a good deal of opposition from local authorities, at least from such of the municipalities or local bodies as are running the undertakings efficiently. They feel that they will stand to lose a great deal if

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the undertakings are acquired by the Government. I request the Hon. Minister just to state the policy of the Government and what the Government feel in this matter.

“ Another thing is that there is no finality in respect of these matters. The Government simply say that they will nationalize the electrical undertakings. They have not stipulated any time-limit. They will take the undertakings according to their own convenience, according to the capacity of their staff to take over and according to their financial resources. The result will be that there will be no progress in acquisition. The complaint everywhere is that new connexions are not given. An electrical undertaking is a paying proposition as evidenced by the Budget speech. The Electricity department has done well. The Government should state that they will acquire all the undertakings within a prescribed period, say, three or four years. Finance should not be the sole consideration.

“ I say, Sir, that it is not good on the part of the Government to keep these people in suspense. Instead of there being any progress, there will be a set-back. Dr. John has rightly said that whenever the Government take over an undertaking, the results are not very happy. I may tell him that the question of electricity undertaking stands on a different footing altogether. There is a case for Government to nationalize this electricity industry. I hope better results will accrue if Government take over this industry. 3-50 p.m.

“ Sir, if we take into consideration the working of the Madras Electricity System, we will see that the establishment charges have considerably increased. If we compare the present figures with those of some four or five years before, we will see that establishment charges have gone up very high. But how far are the people benefited by this increase in establishment charges? The charge for a unit of electricity supplied is four annas, and added to this charge, there is the war surcharge which is 20 to 25 per cent of the charge for units consumed. It is nine years since the war ended. But still the war surcharge is being levied on the consumers. The Government can as well say that they charge six annas per unit instead of levying four annas per unit and charging an additional two annas or so as war surcharge. The public feel that although the Government have nationalized the electricity undertakings, still they do not have any benefit. It is very difficult for middle class people to get connexions. Electricity is not a luxury, but is a necessity. If people apply for new connexions, they are promptly informed that no new connexions could be given.

“ Then, Sir, I have to point out that bills for every month are not sent promptly and people also are not forced to pay their dues promptly. In the case of the Telephones Department, if the dues for a month are not paid, the connexion will immediately be cut off. But the Madras Electricity System goes on accumulating the dues from customers, and when charges due from any one reach the colossal figure of Rs. 300 or Rs. 400, the department

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warns him that the connexion will be cut off. I do not understand why the department should allow so much amount to get into arrears? Why not the department take steps to recover the amounts promptly?

“ Sir, there is a good deal of dissatisfaction with the way in which accounting is done by the department. Sometimes duplicate bills are received asking for payment, even though the amounts have already been paid. The amounts paid previously have not obviously been properly adjusted. Of course, these are all small points, and I hope the Hon. the Minister for Public Works will go into these. I approve of the principle of nationalizing all electrical undertakings, because it is the one department in which the Government have done very well. It is for the Government to clarify their policy in regard to the acquisition of undertakings owned by the municipalities.”

* SRI V. GURUNANDAN ROW :—“ Sir, I support this Bill. I am one of those who believe that public utility services like transport and electricity should be nationalized. I do not agree with the Hon. the Deputy Leader of the Opposition when he said that this Act could not be passed. That is an arguable proposition. But I should say that this Bill is perfectly valid, because, after all, we cannot take over an undertaking. We take over only the property of the undertaking. What is the undertaking as such? It is something which has no body or soul. When we take over an undertaking, it means that we really take over the property of the undertaking. Property of the undertaking is there. It is but right that private enterprise must be taken over as they are run only for profit and not for rendering service to the people. Because of the way in which these services are run by the Government, and because of the bureaucratic red-tape that is practised in the department, and also because of the inefficiency and corruption in the department, the popular feeling is against nationalization. These defects must be removed. I have got very good experience of the department. If any one wants a new connexion, it will take a lot of time for him to get it, unless perhaps he knows how to pull the ropes from behind. If any one wants to change his current from AC to DC, there is difficulty again. There is no spirit of service among the people in the department. Once the undertaking becomes a Government department, the idea of bossing over people comes in. But a business concern is there to please people, and therefore it is we get much attention from business people. Therefore I would bring it to the notice of the Government that they should have a business-like approach to the matter. Courtesy must be shown to the people. The department must be efficient. The needs and conveniences of the people must be attended to. Then alone the Government can think of making nationalization popular.

“ Sir, there are certain clauses in the Bill which may give rise to litigation. In fact the judgment of the Supreme Court has necessitated the bringing in of this Bill. I have given notice of my

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amendment to clause 7 only to try to help the Government. The Bill was circulated to us only yesterday, and within the time available, I have given notice of some amendments. Clause 7 (1) as it stands reads as follows :—

“7. Appointment of a sole representative.—(1) Every licensee may, within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or, in the case of an undertaking taken over, within three months of the commencement of this Act, appoint an individual who may be the managing agent or a director or an officer of the licensee or any other person to act as his sole and accredited representative . . .”

That is to say, even in respect of an undertaking which the Government are taking over, they are allowing the licensee the right to appoint an accredited representative. The licensee has got the right to appoint an accredited representative within three months from the date of the coming into force of the Act. Sub-clause (3) of clause 7 says—

“(3) Nothing in the foregoing sub-sections shall be deemed to require a licensee of an undertaking taken over, who has appointed an individual as his sole and accredited representative, to make a fresh appointment after the commencement of this Act . . .”

The licensee is not required to make a fresh appointment after the commencement of the Act if he has already appointed one. I think the draftsman of the Act wants that in cases where there is already an accredited representative, that person should be considered the accredited representative and that no fresh appointment of an accredited representative should be made. I understand that this is applicable only to municipalities. It is only in cases where there is no accredited representative appointed before the commencement of this Act that one has to be appointed.

“The Government allow an undertaking taken over to appoint an accredited representative. That means Government invite litigation. Suppose an accredited representative has already been appointed for an undertaking already taken over, and now under this clause the undertaking make a fresh appointment, what are the Government going to do? This is my question. That is why. I have given notice of an amendment making it not possible for such persons now to come and say, ‘I am going to appoint an accredited representative and thereafter I am going to select whether I am going to come under basis “A”, “B” or “C”, even though all these things have been gone through in the past. This is one of the aspects of the Bill on which I wanted to say a few words. 4 p.m.

“There is another important aspect on which also I would like to say a few words. It is about those employees who have been retained in service after the undertaking was taken over by the Government. Sub-clause (2) of clause 15 says: ‘Persons whose services are retained shall be governed by such rules as the Government may, from time to time, make in regard to them’. But what is to happen to people who were working in the undertaking taken over? They should be deemed to be Government servants from the date it was taken over by the Government. There should be no break in their service. Government should make a definite

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statement in the Act that no employee of an undertaking taken over by Government shall lose his appointment or suffer by getting less emoluments because of such acquisition. To give effect to these objects I have given notice of amendments.

"Then, Sir, I would like to have some explanation from the Hon. Minister as to why two different types of compensations are provided in the Bill. I refer to items (a) and (b) under item (ix) of sub-clause (3) of clause 5. Sub-item (a) says: 'in case the licensee is a person licensed under Part II of the Electricity Act, at the rate specified in the licence in respect of compulsory purchase, or where no rate is specified in the licence, at fifteen per cent on the values referred to in sub-clauses (i) and (iv), at the rate of ten per cent on the value referred to in sub-clause (ii), and at the rate of five per cent on the value referred to in sub-clause (iii);' This is one type of compensation. Sub-clause (b) provides for another type of compensation and it says: 'in case the licensee is a person who has obtained sanction under section 28 of that Act to engage in the business of supplying electrical energy, at the rate of ten per cent on the values referred to in sub-clauses (i) and (iv) and at the rate of five per cent on the values referred to in sub-clauses (ii) and (iii).' I want some clarification on this point also from the Hon. the Minister in charge of the Bill.

"And the last point on which also I want clarification from the Hon. Minister is this: Part B of Schedule I says: 'For the purpose of section 5 (1), "net annual profit" in respect of any account year of a licensee being a local authority shall be (i) the amount actually appropriated; or (ii) the amount which could have been appropriated, to the general funds of the local authority on account of the undertaking for that account year in accordance with the audited accounts of the undertaking.' All that I want to say is that a local authority must not be treated in the same fashion as others. The local authorities must be paid a little better compensation because the profits made by the local authority do not go into the hands of the private people. It goes to the municipality. That means that the profit goes to the people of the municipality. Then again the municipalities do not run these undertakings with a profit motive but more or less on a service basis. If the compensation is worked out on the basis proposed, the municipalities would get less. Therefore, I suggest to the Government that in calculating the profits made by the municipalities, some other liberal method should be adopted so that more compensation is paid to these municipalities. The Schedule should be amended with this aim in view."

* SRI G. KRISHNAMURTHI :—"Mr. Chairman, Sir I do not know what nationalization means. In these days after the attainment of Independence, there is not much meaning in the demand for nationalization. In the pre-1947 days when the Britishers were running our concerns there might have been some meaning. But now, when most of the concerns are run by our own people, and the Government also are expected to be committed to a policy

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of encouraging private enterprise, there is not much meaning in nationalization. We know that laymen as a whole feel that they are sure to get a thing done more easily by the private company than by the Government. Great hardship is felt by a person in drawing even a few rupees due to him from the Government Treasury. It is very easy to remit money into the treasury but to get even a few rupees from the treasury is a great hardship. When such is the case with the working of the Government Treasury, I do not know how we are going to improve other facilities for the public by taking over the electricity undertakings. In theory and on paper it might sound well that the Government should be able to own all the electricity undertakings so that they might be able to provide even the remotest villages with electricity and enable the farmers there to pump out water with the aid of electric power to their fields. When it comes to practice, we find there is a lot of difficulty in approaching the Government and getting things done. So what I would request Government to do in the matter is to have something like a Government Board which is to be run completely on commercial lines and completely free from the shackles of red-tape that usually follows Government business. If the Electricity Board is manned exclusively by experts and run completely on commercial lines, then the difficulty felt by the laymen as a result of the nationalization of electricity undertakings will not be there.

"Now, Sir, we like to have enlightenment from the Government as to how many electricity undertakings are there in the State, how many are to be taken over by the Government under this scheme, how many of them have already been taken over, how much money was paid by the Government in respect of undertakings already taken over, and how much money would be required to take over the others. If particulars regarding these are furnished to hon. Members, they will be better able to judge the position correctly. Immediately after the attainment of Swaraj, in our enthusiasm we want to have everything done by the Government and that too now itself. We want things that can be done in the course of the next two or three generations to be done now itself. I had occasion to submit to hon. Members of this House that the policy of the Government had been to tax the present generation for the benefit of the future generation. This is like the man hoarding up money without using it himself but allowing that money to be used not by his own son but by his adopted son. We know how members belonging to our future generation are behaving and are going to behave.

"Now we want to do everything ourselves. The acquisition of so many electrical undertakings means investment of so much of capital and the Government may therefore go in for a loan tomorrow, or this Government may curtail certain items in the Budget. Some items of capital expenditure may be debited to the revenue account which in turn will mean that the present generation will have to make sacrifices. Of course, it is all for the good.

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of the nation. But, is it just and fair to take over all these undertakings in the present generation itself? How many undertakings have been already taken over and, may I also ask, what are the benefits that we have reaped as a result of it? As pointed out by hon. Members who spoke earlier, by undertaking to run certain electrical undertakings in the City and elsewhere themselves, the Government have not lowered the rates for supply of electricity. What then are the benefits for the present generation? Is it not better for us to hasten slowly in regard to this matter?

“ With regard to conditions of service of the employees of the undertakings to be taken over, I find that we are going away a little from what we ought to do righteously. We say that anybody's service can be terminated by giving him three months' notice. This notice is to take effect irrespective of anything to the contrary in any contract or agreement that the person might have already entered into with the business concern that has been running the electrical undertaking. How far are we right in making such a provision? One may be a highly paid officer or a poorly paid peon and, may I ask, are these people to be at the mercy of the future Government servants who are to occupy these *gadis* simply because we make a rule that anybody's service can be terminated after giving him three months' notice? After all the intention of the Government, by nationalizing the electricity undertakings, is to provide the best possible facilities to the people in regard to the supply of electricity. Then, why should we threaten these employees who might have put in years of service that their services can be terminated on three months' notice? Are they not our own brethren? Did they not enter the service of these undertakings in the hope that their services would be required for ever? Why should we therefore make a provision in this enactment that anybody's service can be terminated after giving him three months' notice?

“ Then, what about the salaries of these employees? I know personally that there are many concerns which pay their employees more than what the State Government do. They are paying them actually at the Central Government rates. What will be the fate of these employees? Will not the State Government say that in their Electricity System, they are paying an Accountant or an Engineer only so much and that the ex-employees of the undertakings taken over should accept only those rates? Why should these employees be asked to work at some disadvantage to themselves? There should be a provision therefore that when an electricity undertaking is to be taken over, no employee would be affected by it. Such an assurance was given when the Pudukkottai State was merged with the Tiruchirappalli district of the Indian Union, viz., that no State employee would be affected to his disadvantage. Therefore nobody in an electricity undertaking should be affected in the matter of his salary, leave rules, pension, gratuities and other privileges when that undertaking is taken over.

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“ Then, as regards the rates charged for the supply of electricity, if the Government will bring them down or at least state that after a few months the rates charged for the supply will be reduced as a result of the nationalisation of these undertakings on a mass scale, then the public will be satisfied to a large extent. Nothing has been indicated so far in regard to this matter. Therefore, if the Hon. the Minister piloting the Bill would enlighten us on this point, before we are just asked to pass this Bill, we would be satisfied.”

* SRI K. BHASHYAM :—“ Mr. Chairman, Sir, so far as the legal difficulty raised by the Hon. the Deputy Leader of the Opposition is concerned, I would content myself by just reading a few lines from the judgment of His Lordship Sri P. Satyanarayana Rao in the appeal made to the High Court. His Lordship has discussed the law regarding the position under the Government of India Act of 1935 and under the present Constitution. His Lordship has stated : ‘ In the present Constitution the matter is made clear. The power of acquisition so far as the Union is concerned is Item 33 in List I of the Seventh Schedule—Acquisition or requisitioning of property for the purposes of the Union. Item 36 of List II of the Seventh Schedule is in regard to ‘ Acquisition or requisitioning of property except for the purposes of the Union, subject to the provisions of entry 42 of List III.’ His Lordship says that in all these items the power of acquisition is not restricted to land only nor is there any restriction on the extent of the property. Therefore every kind of property can be acquired subject of course to the provisions of the Constitution—Item 33 of List I of Schedule VII for purposes of the Union and Item 36 of List II of Schedule VII for purposes of the State and the form and the manner in which compensation will have to be paid can also be decided by the State. This exactly answers the point raised by the Hon. the Deputy Leader of the Opposition to the effect that in spite of the new provisions which have been introduced in the New Constitution there is still some inherent constitutional difficulty in the State Legislature undertaking legislation of this kind. I therefore do not think it necessary to dilate further upon this point. I think the Government are justified in proceeding with this legislation without any further delay.

“ However, I would like to refer to one point before I finish my speech. This question of nationalisation has come into prominence ever since we have attained Independence. It is certainly a matter of very great importance, but have we got all the money necessary for the purpose of nationalizing all major enterprises? I am for nationalisation but when the Government themselves are in deficit and many of their undertakings which are for the purpose of producing the necessaries of life such as irrigation projects, etc., are held up for lack of funds, I do not see any necessity or urgency for utilising the few crores of rupees that we have got on hand for the purpose of buying the electricity undertakings from private persons. It is true that electricity is a national industry and must be nationalised at some date or other. But, what is the urgency for doing it now when the budget is a deficit one, and when more

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urgent projects are pending execution and which are not capable of being executed now for lack of funds? It is from this point of view that I say that this question of nationalisation need not be taken up now. There must be some priority even in respect of projects which are pending before the Government for execution. However, I am glad to know that the Hon. the Minister in charge of Electricity in the previous Ministry and the present Minister for Public Works have both been careful to point out that only in cases where a private undertaking does not work properly and does not serve the public interest in as efficient a way as it ought to serve, will that undertaking be acquired by the Government. To this extent I am glad that the Government have restricted the scope of their activities and thereby spared some moneys for the purpose of carrying out the more urgent works they have on hand.

“Before I finish I would like to draw the attention of the Government and particularly that of the Hon. the Minister for Public Works who is in charge of electricity to certain facts. So far as this State is concerned, what we find after nationalisation of electricity is that the service is not much more efficient than it was before. In fact, when the private company was in charge, any call for help in respect of any difficulty or failure of lights did receive instantaneous attention and we were able to get the man on the spot within a few minutes. Now, there is some slackness and we usually get a reply that ‘so and so’ is not there or that a man would be coming in half an hour. I think the Government must look into this matter and set it right. After all we are all interested in nationalisation. If the money that goes into the pockets of the private individual goes into the pockets of the Government, the people will be benefited by this nationalisation. If we are to make this nationalisation of electricity popular we must see that the calls for help from the public are really attended to promptly and efficiently. I am making this appeal to the Hon. the Minister in charge that the service should be prompt especially when lights fail on occasions like marriages, etc., I do not think there will be any difficulty in setting this right. I make this complaint not because I want to do so but because I have experienced this difficulty myself.

(At this stage the Deputy Chairman occupied the Chair.)

4-20
P.m.

“Even as regards this Bill there have been many improvements since I last spoke on it. I do think that it requires much greater improvement than what has been done. While supporting the Bill, I wish to point out that if the policy of nationalisation is to be really popular with the people, the Government must be more careful and more efficient than they have been hitherto.”

SRI K. BALASUBRAMANYA AYYAR :—“Mr. Deputy Chairman, Sir, I also feel that there is power for our State Legislature to pass this Bill. The Supreme Court was concerned with the Lists under the Government of India Act, 1935. There the only provision under the Provincial Legislative List was for compulsory acquisition of land. That was all, and there was no

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other provision, and in the concurrent list there was only the word 'electricity'. Therefore, the Supreme Court held that neither the word 'electricity' nor the words 'compulsory acquisition of land' will give the power to acquire any commercial undertaking because it was not merely land. But, under the present Constitution, there is provision for acquisition or requisitioning of property and the Supreme Court has given a very wide meaning to the word 'property'. Property includes everything including goodwill. As the word 'property' is so widely construed, I think it may well be argued that the State List will include the acquisition of commercial undertakings. Let us therefore proceed on the footing that we have got the power to legislate.

"Sir, so far as nationalization is concerned, as a matter of general principle we may all agree. But all the difficulties come only in the actual working. Nationalization, according to me, should be confined to the compulsory acquisition of undertakings which do not serve the public interests properly. If there are companies which have been distributing electricity properly and if they are doing their work to the satisfaction of the public, I do not see any reason why we should compulsorily acquire such undertakings. I do not know how many undertakings there are still to be compulsorily acquired. Therefore, instead of paying compensation to all the undertakings at a time of difficulty, we shall acquire such undertakings which have not been serving the public interest well.

"So far as the general principle of nationalization is concerned, there is always the difficulty that whenever there is nationalisation there is always the difficulty that whenever there is nationalization concern. A profit-making concern sees to it that it discharges its duties to the satisfaction of its constituents, and it is popular also. In all nationalization schemes the difficulty is that so long as the profit motive is not there and the Government are not interested in earning profits, naturally there is loss of efficiency and there is lack of interest also. I would therefore request the Hon. the Minister for Public Works to see that this Bill is not made applicable to those undertakings which supply electricity properly and at reasonable rates and satisfy the public demands. It can be applied to such undertakings which are not run properly and which do not satisfy the Government. If the Hon. Minister can look to this, we shall accept this Bill."

(At this stage Mr. Chairman resumed the Chair.)

* SRI V. V. RAMASWAMI :—"கனம் தலைவர் அவர்களே, இந்த மின்சார விநியோக உரிமைகளை அரசாங்கத்தார் எடுத்துக்கொண்டதைச் சட்டப்படி செல்வாது என்று உயர்தர நீதி மன்றம் தீர்ப்பளித்த பிறகு புதிதாக ஒரு சட்டத்தை சர்க்கார் கொண்டுவந்திருக்கிறார்கள். இந்தச் சட்டத்தை நிறைவேற்றலாமா? அது சரியா? என்பதைப் பற்றி வழக்கறிஞர்கள் இரு தரப்பிலும் எடுத்துச் சொன்னபோதிலும் கூட இந்தச் சட்டம் நிறைவேற்றத்தான் போகின்றது. ஏனெனில், அமுலில் இருக்கும் அரசியலமைப்பின் படி மேல் சபை என்று ஒரு சபை இவ்விடத்தில் இருக்கின்றபடியினால்தான் இந்த மசோதா இங்கு கொண்டுவரப்பட்டிருக்கிறதே தவிர, மற்றபடி கீழ்ச் சபையிலே இது நிறைவேறிவிட்டது. ஆயினும், இங்கு ஒரு வாய்ப்பு கிடைத்திருக்கிறபடியினால் இந்த மசோதாவிலுள்ள குற்றங்களையோ

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குறைகளையோ எடுத்துச் சொல்லக் கடமை யுள்ளவர்கள் என்ற முறையில் நாங்கள் எடுத்துச் சொல்லுகிறோம். அவைகளில் இருக்கின்ற குறைகளை அரசாங்கத்தார் கவனித்து, திருத்தங்களை எடுத்துக்கொண்டு அதற்கு ஆவன செய்வார்கள் என்று நினைக்கின்றேன்.

“இந்த மின்சார விநியோக உரிமைகளை அரசாங்கத்தார் எடுத்துக் கொள்ளப்போவதாக தெரிவித்த காலத்திலிருந்தே பலத்த எதிர்ப்பு இருந்து வந்திருக்கின்றது. தனி நபராக இந்த விநியோக உரிமைகளை வைத்திருந்தவர்கள் அல்லது கூட்டாக வைத்திருந்தவர்கள் இதைப் பலமாக எதிர்த்தார்கள். அவர்கள் தந்நலம் லாபம் இவைகளை கருதி என்று மக்கள் மனதிலே பதியும்படி அரசாங்கத்தார் பதில் சொல்லிக்கொண்டு வந்தார்கள். ஆனால், நகராட்சி மன்றங்களும், ஸ்தல ஸ்தாபனங்களும் மக்களுடைய நலன்களைக் கவனிப்பதற்கும், உரிமைகளைப் பாதுகாப்பதற்கும் கடமைப்பட்டிருக்கின்றன. மக்களுக்குக் கடமைப் பட்டிருக்கின்ற நகர ஆட்சி மன்றங்களைச் சேர்ந்தவர்களே எதிர்த்தபோது, நல்ல ஈடு கொடுப்போம் என்று அவர்களுக்குத் திருப்தியளித்து இந்தச் சட்டத்தை முன்பு நிறைவேற்றினார்கள்.

“ஆயினும், அந்தக் காலத்திலே நகராட்சி மன்றத்தினர்கள் அனைவரும் ஒன்று கூடி ஒருமுகமாக எதிர்த்திருந்தார்களானால், அவர்கள் சொல்லக் கூடிய நியாயத்தை சரியாக உணர்ந்து, மின்சார விநியோக உரிமைகளை நகராட்சி மன்றங்களிலிருந்து அரசாங்கம் நீக்கியிருக்கமாட்டார்கள். இந்த மசோதாவிலிருந்து நகராட்சி மன்றங்களை நீக்கியிருப்பார்கள். ஆனால், துரதிர்ஷ்ட வசமாக அந்த நகராட்சி மன்றங்களிலே பெரும்பாலும் செல்வாக்குள்ளவர்களும், பொறுப்பை உணர்ந்து அரசாங்கத்திற்குச் சொல்லக்கூடிய உரிமை உள்ளவர்களும் நகரசபையிலுள்ள வர்களெல்லாம் ஆளும் கட்சியைச் சேர்ந்தவர்களாயிருந்தபடியால், தங்கள் உரிமைகளை ஒரவாறு மனச்சாட்சி சொன்னபோதிலுங்கூட, அரசாங்கத்தார் கொண்வந்த தீர்மானத்தை ஆதரிக்கும் நிலைமையில் கைவிட்டுவிட்டார்கள் என்று சொல்லவேண்டியிருக்கிறது. ஆயினும், இப்பொழுது நகராட்சி மன்றங்களிலே இருக்கின்றவர்கள் ஏன் இதை ஆதரிக்க மறுக்கிறார்களென்றால், ஒவ்வொரு நகரசபைக்கும் வருமானம் வரக்கூடிய வழிகள் எத்தனையோ இருப்பதாகச் சொல்லியபோதிலும்கூட, முக்கியமானதும், பெரிதும் கவனமாக நகராட்சி மன்றங்களாலே போற்றி செம்மையாக நிர்வகிக்கப்பட்டு வந்ததும், இந்த மின்சார விநியோக முறை ஒன்றுதான்.

“ஸ்தல சுயாட்சி இலாகாவிலே ஒவ்வொரு நகராட்சி மன்றத்தினுடைய நிர்வாகத்தை பரிசீலித்து வெளியிடும் அறிக்கையிலே, ‘உங்கள் வருமானத்தைப் பெருக்கவேண்டும்; வருமான இனங்களைப் பெருக்கவேண்டும்’, என்ற முறையில் நகராட்சி மன்றங்களை இடித்துக் கூறுவார்கள்.

“நகராட்சி மன்றங்களுக்கு வருமானம் கிடைத்து வந்த இந்த மின்சார விநியோக உரிமையை அரசாங்கம் எடுத்துக்கொண்டதால், அவர்கள் மிகவும் ஏமாற்றம் அடைந்தார்கள். அரசாங்கம் இந்த உரிமையை அவர்கள் விடியிருந்து எடுத்துக்கொள்ளுவதற்குக் காரணம் சொல்லும்போது, ‘உங்க ளிடத்திலே பணம் இல்லை; சுற்றுப்புறம் இருக்கின்ற அனேக கிராமங்களில் தேவையானபடி விநியோகம் செய்வதற்கு உங்களைப் முடியாது; அரசாங்கத்தாரால்தான் முடியும்’, என்று சொல்லி எடுத்துக்கொண்ட பிறகு, அப்படி கிராமந்திரங்களுக்கு மின்சார வசதியை கொண்டுபோனார்களா என்று பார்த்தால், இல்லவே இல்லை. மின்சார வசதி விஸ்தரிக்கப்பட்டிருக்கும் கிராமங்களில்கூட, ‘நீங்கள் கடன் கொடுத்தால், மின்சார சப்ளை தருவ தற்கான வசதிகளைச் செய்து கொடுப்போம்’, என்று சொல்லக்கூடிய நிலைமை இருக்கிறது. கடன் கொடுத்தவர்களுக்குக்கூட இன்னும் திருப்தி கரமாக மின்சாரம் கிடைக்கவில்லை.

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p.m.

“மேலும், மின்சார விநியோக உரிமைகள் நகராட்சி மன்றங்களிலிருந்து எடுக்கப்பட்டதால், அவைகளுடைய வருமானம் குறைந்ததோடு அல்லாமல், நகராட்சி மன்றத்தின் அன்றாட நிர்வாகத்தில் ஈடு

17th May 1954] [Sri V. V. Ramaswami]

பட்டிருக்கின்ற ஆணையாளரும், மற்ற நகரசபைத் தலைவரும், உறுப்பினர்களும் அந்தந்த நகரங்களிலுள்ள முக்கியமான பல இடங்களுக்கும் விளக்கு போடவேண்டுமென்றே ஒரு இடத்திலிருந்து மற்றொரு இடத்திற்கு மாற்ற வேண்டுமென்றே, ஆற்றலைக் கூட்டவேண்டுமென்றே நினைக்கும்போது, அந்தக் கடமையை நிறைவேற்றுவதற்கு சாத்திய மில்லாதபடி அவர்களிடமிருந்து இந்த முக்கியமான உரிமையானது எடுத்துக்கொள்ளப்பட்டுவிட்டது. ஆகையினால், ஆதிரிலிருந்து எதிர்க்கு வந்தபடி இந்த ஒரே வருமானம் இருக்கின்ற இந்த உரிமையை மீண்டும் இந்த நகராட்சி மன்றங்களுக்கு அரசாங்கம் பெருந்தன்மையுடன் கொடுக்க வேண்டும். அனேக நகராட்சி மன்றங்கள் வழக்கு தொடுத்திருந்தபோது மற்ற நகராட்சி மன்றங்கள் அப்படிச் செய்யாமல் ஏன் சும்மா இருந்தார்கள் என்றால், பணம் இல்லாதபடியினாலும் முக்கியமாக அரசாங்கத்தின் பெருந்தன்மையை முழுவதும் நம்பியதாலும் விட்டுவிட்டார்கள். தங்களுடைய உரிமைகளுக்காக வழக்குத் தொடர்ந்த நகரசபைகளுக்கு என்ன கதி ஏற்படும், என்பதைக் கவனித்து, அவர்களுக்கு இந்த உரிமையானது திருப்பிக் கிடைத்தால் தங்களுக்கும் திருப்பிக் கிடைத்துவிடும் என்ற நம்பிக்கையுடனே அரசாங்கத்தின்மீது அநேக நகராட்சி மன்றங்கள் வழக்குத் தொடராமல் விட்டார்கள். அரசாங்கத்தின்மீது வைத்த நம்பிக்கையின் காரணமாகவும், அரசாங்கத்தார் பெருந்தன்மையுடன் நடந்துகொள்ளுவார்கள் என்ற நம்பிக்கையாலும் வழக்குத் தொடராமல் இருந்ததை முன்னிப்பாவது, இந்த ஸ்தல சுயாட்சியிலே ஆழ்ந்த அனுபவமும், அனுதாபமும் கொண்ட கனம் அமைச்சர் அவர்கள் இந்த நிலையிலே இந்த மசோதாவைக் கொண்டுவந்து இந்தமாதிரி பொறுப்பை ஏற்றுக் கொள்ளவேண்டியது மிகவும் வருத்தமாக இருந்தபோதிலும், அவருடைய பரம்பரையான பெருந்தன்மைக்கு ஏற்றபடி நகராட்சி மன்றங்களின் இந்த உரிமையைத் திருப்பிக் கொடுத்துவிடவேண்டுமென்று மீண்டும் வற்புறுத்திக் கேட்டுக்கொள்ளுகின்றேன். அப்படிச் செய்யாவிட்டால், இந்தச் சட்டமே நல்ல முறையில் கொண்டுவரப்படவில்லை, அற வழியும் அல்ல என்று சொல்லி இதற்கு என்னுடைய எதிர்ப்பைத் தெரிவித்துக்கொண்டு; என்னுடைய உரையை முடித்துக்கொள்ளுகின்றேன்.”

SRI A. GAJAPATHY NAYAGAR :—“ மன்றத் தலைவர் அவர்களே, தனி மனிதன் அல்லது நகராண்மைக் கழகங்கள் மின்சார சக்தியை விநியோகிக்கக்கூடாது, மின்சார சக்தி விநியோக வேலையை அரசாங்கமே ஏற்றுக் கொள்ளவேண்டுமென்று இந்த மசோதாவின் முதல் அடியிலேயே சொல்லியிருப்பதை நான் வரவேற்கிறேன். ஏனெனில், நீதிக்கு அடுத்தாற்போல் மக்களுக்கு அத்தியாவசியமாக வேண்டியது மின்சாரம். அதாவது, சிறு சிறு குடிசைத் தொழில்களை நடத்துவதற்குக்கூட நமக்கு மின்சார சக்தி வேண்டியிருக்கிறது. நாடு முன்னேறவேண்டுமானால், அதற்கு மின்சார சக்தி அவசியம் வேண்டும். ஏனென்றால், மின்சார சக்தி இருந்தால்தான் பல கைத்தொழில்கள் விருத்தியடைவதற்கு முடியும். மின்சார விநியோக வேலையை அரசாங்கத்தார் பொறுப்புஎடுத்துக்கொண்டு நடத்தலாம் என்று இந்த மசோதா கூறுகிறது. மற்றவர்கள் இந்த வேலையைச் செய்து வந்த போது அதற்கு எப்போதும் பல காரணங்களினால் தடை ஏற்பட்டுக்கொண்டு வந்தது. நண்பர் ஸ்ரீ பாலசுப்ரமணிய அய்யர் அரசியலமைப்புச் சட்டத்தின் பிரகாரம், ‘சொத்து’ என்ற பதத்தில் இதுவும் அடங்கிவிடும் என்று சொன்னார். இந்த மசோதாவின் தொடக்கத்தில் கூறியிருப்பதாவது—

‘Whereas it is expedient in the public interests that the business and service of the generation and supply of electricity be carried on by the State of Madras to the complete exclusion of all other persons inclusive of citizens and local authorities.’

“இந்த மசோதாவிற்கு சட்டப்படி தடை இருக்கிறதென்று வாதம் செய்தார்கள். இரு தரப்பாருடைய வாதங்களையும் நான் கேட்டுக்கொண்டிருந்தேன். ஜட்ஜாக இருந்தவன் என்ற ஒரு அனுபவத்தில், ‘இந்த மசோதாவைக் கொண்டுவருவதற்கு சட்டப்படி தடை எதுவும் இல்லை’, என்று

[Sri A. Gajapathy Nayagar] [17th May 1954]

நான் சொல்லுகின்றேன். தடை இல்லாமல் இருக்கும்போது, ஏன் இந்த மசோதாவை சட்டமாக்கக்கூடாது? இதற்கு சட்டத் தடை எதுவும் இல்லை என்று நான் சொல்லுவேன்.

“இரண்டாவதாக, இப்பொழுது இதற்கு வேண்டிய பொறுப்பு எப்படி, வரி விதிக்கவேண்டிய முறை இவைகளெல்லாம் சட்ட பூர்வமாக இதில் சொல்லிவிட்டார். அப்படிச் சொல்வது நலம் என்று நினைக்கிறேன். இதற்கு ஒரு சட்டம் கொண்டுவந்து, அதற்குத் திரும்பவும் ஒரு திருத்த சட்டத்தைக் கொண்டுவர வேண்டுமானால், இது ஒழியாத சட்டமாய்விடும். சட்டபூர்வமாகச் செய்யும்போது, அது மக்களுக்கு எந்த விதத்தில் நன்மையைச் செய்யும், எப்படித் தீமை ஏற்படும், அதை எப்படிப் போக்கவேண்டும் என்று ஆராய்ந்து பார்த்து, நன்மை தீமைகளைக் கவனித்து, முடிவான தீர்ப்புக்கு வந்திருப்பதையும் நான் வரவேற்கின்றேன்.

“மூன்றாவதாக, சட்டம் செய்துவிட்டு பேச்சளவில் நிற்கக்கூடாது. நாம் வரவு செலவுத் திட்டத்தில் மின்சார சக்தி உற்பத்திக்கும் விநியோகத்திற்கும் அனேக லட்ச ரூபாய் ஒதுக்கி வைத்திருக்கின்றோம். பேச்சளவில் நிற்காமல் உடனடியாக மின்சார சக்தி உற்பத்தியைப் பெருக்க செய்ய வேண்டும். ஏனெனில் மின்சாரம் கொடுக்கும் உறுப்பினர்கள் இருக்கிறார்கள். எந்தக் கம்பனியிலே யாருக்கு ஷேர்கள் இருக்கிறதோ அவர்களுக்கு மாத்திரம் வேலை கொடுத்தும், இன்னொரு கம்பெனியில் ஷேர் இருந்தால் அவர்களுக்கு மாத்திரம் வேலை என்றும் ஒருவருக்கொருவர் ஏக சச்சரவு இருந்ததை எல்லாம் ஒழித்து, அரசியலார் ஒரு நடுநிலைமையில் செய்வது நல்லது. அப்படிச் செய்யும்போது இப்பொழுது இருந்தே வைக்கவேண்டும். நீக்கக்கூடாது. இம்மாதிரி நிர்ப்பந்தம் கூடாது. எந்த வழியில் வேலை செய்தால் நலமாக இருக்குமோ அந்த வழிகளைக் கண்டுபிடித்து ஆவன செய்வார்கள் என்று அரசியலாரை நம்பி இந்த மசோதாவை நான் முழு மனதுடன் ஆதரிக்கிறேன்.”

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ Mr. Chairman, Sir, most of the speakers in this House, and especially Dr. John, have been expressing a very grave doubt about the legality of this measure. He has been very scathing in his criticism that even now the Government are running a grave risk in having brought forward this measure. I must confess that I am not a legal pundit. Anyhow, as a Member of this Government, we had our legal opinion. We are advised that under Article 31 (2) of the Constitution, ‘property’ includes interest in a commercial undertaking, and that can be acquired. Under Article 31 (3) the State can make laws for acquiring these undertakings. Apart from this, hon. Members who are also legally proficient—Sri V. Gurusudanandan Row, Sri K. Bhashyam and Sri K. Balasubramaniam Ayyar—have testified to the fact that it is within the competence of this legislature to acquire such undertakings. So, as one belonging to the legislators in general, I feel that three people have expressed an opinion against one, and that, under the rule of majority even in this House, I am on very safe ground in having brought forward this measure. In the Lower House this Bill was passed, and it had now been brought before this House. Then, Sir, Dr. John went on to say something about compensation and so on. Before I reply to his objections I would quote the hon. Member Sri Raza Khan (he is not here at present) as one who has stated that, even at the time when this was enacted, many

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of the licensees and people who had any interest in these undertakings expressed very great satisfaction with the amount of compensation that was offered. In nationalization, nothing would be possible if we do not change our attitude and if we do not change our outlook with reference to property and its values, as they existed from the Victorian days. (Interruption.) It is well within the competence of the Court to question every proceeding. This also may go to the courts."

DR. V. K. JOHN :—" If the amount of compensation, proposed to be paid, was considered to be good, why should these people go to courts? "

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—" Some people went to courts for different reasons. There was no question about the amount of compensation. Perhaps Dr. John may appear on behalf of some concerns. His speech may serve as an advertisement for people to approach him for defending their claims. (Laughter). Anyway, I am not concerned with this. I am now speaking on behalf of the Government. I wanted to quote only his henchman (Mr. Raza Khan) who expressed great satisfaction with the compensation amount. He was in the last Assembly and participated in the proceedings. We are concerned now only with the rectification of certain lacunae that have been pointed out by the High Court and also by the Supreme Court. It is with that object we have brought forward this Bill. In the Lower House, Members wanted that this Bill should be referred to a select committee. I opposed that motion and told them that no useful purpose would be served by referring the Bill to a select committee. I told them that this Bill was considered in great detail before. Then they accepted and passed this measure."

" So there is no point in saying that this Bill should be referred to a Select Committee of this House. After all what is a Select Committee? All the hon. Members who took part in this discussion, the great legal pundits, will be there on the Select Committee. As I have already pointed out this Bill had been considered in very great detail by a Select Committee on which there were able lawyers, and the views expressed now were already considered by that Select Committee and the Bill was then passed by both the Houses. We are now only concerned with one or two sections in the Bill which were declared void by the High Court and we want to validate those sections.

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p.m.

" Sir, the hon. Member Sri Gurunandan Rao expressed some difficulties with reference to certain clauses of the Bill. I shall deal with them when we take up the clause by clause consideration of the Bill. The hon. Member Sri G. Krishnamurthi spoke about this measure and he was pleading very strongly on behalf of the services and things like that. In all these things it would be very difficult to stick to the contract because the company might have entered into a contract with the staff and it would not be possible in all cases to respect all the conditions of the contract. However, it would

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be Government's aim not to disturb the arrangements wherever it is possible and to the extent possible. If we are to respect all the contracts of the concerns to be taken over then nationalization itself will not be possible. We can never make a start at any point.

"Several hon. Members including the Hon. Deputy Leader of the Opposition Dr. John spoke about the tariff and things like that. They said the tariff rates in Mysore and Travancore-Cochin were much cheaper than the tariff rates here. I would like to point out to hon. Members that there the schemes were taken up when prices of materials and cost of labour were very low. Therefore our tariff cannot be compared with the tariff in those places. In any case our tariff is cheaper than the tariff of the licensees. This is a valid point for the hon. the Deputy Leader of the Opposition to note.

"Sir, several people have been saying that the nationalization of electricity is wrong and so on and so forth. But none of them have understood the fact that none of these concerns are generating power. The entire generation of power is done by the Government and it is only the distribution that is done by these licensees. They are more or less agents, like the zamindars who were agents for collecting land revenue for the Government. We have done away with the zamindars. The same analogy holds good in this case also.

"In speaking on this measure, hon. Members were complaining against the inefficiency of the Electricity department and the difficulties experienced by people in getting service connections and all that, and so they said that popular feeling was against nationalization of electricity. I admit that it is very necessary to make the administration of the department more efficient. But I wish to point out here that it has no relevancy to the discussion of this Bill. We are only concerned now with validating certain sections of the Act consequent upon the judgment of the High Court and the Supreme Court. The question of efficiency in the administration of the department and things like that were discussed during the discussion on the Budget and they can again be discussed during the discussion on the Budget for the next year. By saying this I do not suggest that hon. Members of this House shall not have the right to express their views. What I say is that this is not the appropriate occasion. I do feel that that aspect of the matter ought to be looked into and I am sure it will be looked into. Hon. Members Sri Balasubramanya Ayyar and Sri Gajapathy Nayagar also referred to the efficiency of the department. I can assure hon. Members that the department would be managed as efficiently as possible.

"But a very valid point to note in this connection is that some of the licensees might feel that the Damocles' sword of nationalization is hanging over their heads and this will affect their enthusiasm. Licensees will not be prepared to invest their money on any large scheme because any moment the Government might step in and take away the concern. This is a very real point, and this was also

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referred to in the other House. While speaking in the other House I gave an assurance that to start with the Government will take over only such undertakings which are inefficient and which are not serving the interests of the people concerned. As regards the others, I said, Government would draw up a long range programme, and arrange for the taking over of those undertakings in stages, that is, a certain number of undertakings would be taken up during a certain number of years and the others later. Some such workable arrangement will be made with reference to this matter. Again Government will help these undertakings by advancing loans either from the State funds or by getting loans from the Centre. The Centre has got ample provision to lend through our State to these licensees for extension of rural electrification. So we would try to fix up the programme like that so that the licensees may not feel that they are in a state of suspense and that they could not launch upon their legitimate extension programme.

“ Then, Sir, the hon. Member Sri V. V. Ramaswami said that if only these local authorities undertakings had fought in one body perhaps they would have been treated well. I may assure him that they did fight and in fact their cause was taken up by some local authorities, and the Chairmen of those local authorities belonged to our party. Let him not commit the mistake of imagining that because they belonged to the Congress Party, they did not raise their voice of protest. Only Congress people took up this. They did not keep quiet. It is they who took the matter to the Supreme Court and the decision of the Supreme Court has necessitated the bringing in of this Bill to validate certain sections of the original Act. Party affiliation is one thing and consideration of public interests is quite another thing. The hon. Member referred also to my association with the local body and said that I should be sympathetic towards these local bodies. I do not attach very much importance to this body or that body. Whatever duty that falls to me, I feel I should carry it out in the best interests of the people whom I am serving. I might have been the President of a District Board. But that does not mean that my attachments are on the one side. I am now in the Government and it is not as if whatever I do should be in favour of the local authority. Whatever I do, it is for the sake of the people. We want to serve the people. After all let me make it clear to hon. Members that the local authority is a limb of the Government. While I was moving the Electricity Demand in the other House some hon. Members of that House criticised and asked: ‘ What is the use of asking for so much money. The Government are not serving the rural public. They are not extending electricity to rural areas to enable and agriculturists to install pump sets and so on. They are only catering to the needs of the rich people in the towns such as mercury and colour lighting in marriages and other things’. I pointed out to them that this Government particularly after the previous Chief Minister took up office, passed orders raising the tariff to a very sharp level

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especially when the Government granted permission for gala parties and marriages and such other things. I also said in that connexion that if the rich were prepared to pay through their nose, for all these things, the amount would be utilized for rural electrification. The hon. Member Sri V. V. Ramaswami who is a supporter of the cause of the local authorities tried to make out a strong case for them. No doubt a Municipality is a public institution. Let us, however, analyse what sort of service is being rendered by them to the public. Beyond street lighting, how is the energy spent in municipalities? The energy is spent for running mills and cinemas. Electricity is used by rich men. In what way are the municipalities serving the rural population, the poor people, the peasants, I ask? Why should not Government get the profit out of these undertakings? After all it is Government that is generating the power and supplying it to municipalities. And the municipalities are there to help the people. Further they come to Government for grants for many other purposes. They are a limb of the Government.

4-50
p.m.

“ That is why even here this trouble arose, namely, the differentiation in the amount of compensation payable between the local authority and the licensee. I was told by my predecessor in office that the original Act was based on the model of the nationalization plan of England. In England they took the view that the Borough Council and the Municipal Council were but limbs of the Government and they could therefore afford to pay a lesser rate of compensation to them. After all when we want to take over the electrical undertakings from municipalities, we want to extend electricity to the rural areas and to the agriculturists. Even if the municipalities make some profit out of these electricity undertakings, it is not swallowed by one individual but the profit goes to supplement the resources of the municipalities concerned. If therefore the Government resolve to acquire these municipal electricity undertakings, it cannot be made out that municipalities should be considered as being greater than the Government themselves. This kind of proposition will never stand. I ask hon. Members here whether any of them could question the validity of this statement.

“ I would also earnestly request the hon. Member, Sri V. V. Ramaswami, to understand that he should, because he does not belong to the Congress Party not criticize the Government. But he should think cogently about the matter in question and then make criticisms. Though I am not a legal pundit, I feel I have explained things in a satisfactory manner.

“ I would like to mention another thing in this connexion. A charge that is true is that there is no quickness in giving connexions. There are other charges also, namely, that the department is inefficient and there is corruption and so on. There is a direction from the Centre to the effect that, as is the case in England to-day, we should also set up an Electricity Board and make it work like a commercial body. As the hon. Member Sri K. Balasubramanya Ayyar said, private enterprise will be very

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efficient. I would like to point out that the difference between Government management and private enterprise is the difference between an elephant moving and a small dog running away. Government can never be as efficient as private enterprise because in private enterprise there is the profit motive behind it. Private enterprise has to keep its customers satisfied. But in Government management, there is always the red-tape. A man feels he is safer and he is not hard put to go down and do things. These are practical difficulties which I do admit. Electricity is no doubt a commercial enterprise and the Central Government have recognized this fact and have hinted to us to form the Electricity Board which is for the purpose of running the enterprise on a commercial basis. This question is awaiting decision at the hands of the Government. What we are waiting for is to have our very big schemes like the Kundah Project, which is to be constructed at a cost of about Rs. 28 to Rs. 30 crores, capable of generating 1,45,000 k.w.s., the Periyar and several other hydro-electric schemes completed and brought into the State grid when we can launch upon this Electricity Board. By its very nature, the Electricity Board when set up, would answer and satisfy all the points which the hon. Member Sri G. Krishnamurthi raised on the floor of this House. All these things are there and the Government are not trying to take the money of the poor people for their personal benefit. If the Government take money in one form or other through many of the taxation measures which have been criticized, it goes back to the people in some form or other. Some of the defects like inefficiency and over-crowding of the staff, etc., would disappear in no time. They cannot persist for any length of time. I think I have in a way completely satisfied hon. Members who have made very constructive and enlightening criticisms on the floor of this House. I would therefore request them to consider this Bill favourably and pass it."

MR. CHAIRMAN :—" The question is—

' That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried.

MR. CHAIRMAN :—" The House will now adjourn and meet again tomorrow at 2-30 p.m."

The House then adjourned to meet again at 2-30 p.m. on Tuesday, the 18th May 1954.

VI.—PAPER LAID ON THE TABLE OF THE HOUSE.

Bill passed by the Assembly and received therefrom in the Council—

a The Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954).

a Circulated on 15th May 1954.